

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 21-42923

MICHAEL EARL LAMAR ADAMS,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING THE DEBTOR'S MOTION FOR RECONSIDERATION,
BUT WAIVING FILING FEE FOR MOTION TO REOPEN CASE**

This case is before the Court on the Debtor's motion entitled "Motion to Reopen and Reinstate Case" filed on May 13, 2021 (Docket # 39, the "Motion"), which the Court construes as a motion for reconsideration of, and for relief from, the Court's April 26, 2021 Order dismissing this case (Docket # 35). The Court will deny the Motion, for the following reasons.

First, the Court finds that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

Second, the allegations in the Motion do not establish excusable neglect under Fed. R. Civ. P. 60(b)(1), Fed. R. Bankr. P. 9024, or any other valid ground for relief from the order dismissing this case.

Third, the Debtor asserts in the Motion that he completed the credit counseling briefing on January 13, 2021, rather than on April 6, 2021 as stated in the Certificate filed at Docket # 13. But that assertion is clearly incorrect, as shown by the very exhibit the Motion cites (Exhibit 2). That exhibit appears to be a copy of an e-mail to Debtor's counsel dated May 3, 2021, and it clearly indicates that the Debtor did not complete the required credit counseling briefing until April 6, 2021. Rather, the Debtor only completed a portion of the required briefing on or before the April 1, 2021 petition date (on January 13, 2021, the "online portion"), and then did not complete the other portion of the required briefing until April 6, 2021 (the "phone briefing" portion). The requirement of Bankruptcy Code section 109(h)(1) is not satisfied until the required credit counseling briefing has been fully completed, and that completion must occur no later than the petition date. That did not occur in this case.

Fourth, the Debtor is not barred from filing a new bankruptcy case.

Accordingly,

IT IS ORDERED that to the extent the Motion seeks a waiver of the filing fee for the motion to reopen, it is granted, and any such filing fee is waived.

IT IS FURTHER ORDERED that in all other respects, the Motion is denied.

Signed on May 17, 2021



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge